

*new filing
cross ref
820.00*

ITEL

Ite Rail Corporation

55 Francisco
San Francisco, California 94133
(415) 984-4000
Telex 34234

14544
RECORDATION NO. Filed 1425

December 26, 1984

JAN 14 1985 -2 10 PM

5-014A042

No.

INTERSTATE COMMERCE COMMISSION

Mr. James H. Bayne, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Date ... JAN 14 1985

Fee \$... 20.00

ICC Washington, D. C.

Dear Mr. Bayne:

Pursuant to 49 U.S.C. Section 11303(a) and the Interstate Commerce Commission's rules and regulations thereunder, I enclose herewith on behalf of Ite Rail Corporation for filing and recordation with the I.C.C., four counterparts of the following document:

New filing
Lease Agreement of November 1, 1984 between Ite Rail Corporation and Atchison, Topeka and Santa Fe Rail Company.

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Please cross-reference this Lease to the Consolidated, Amended, and Restated Equipment Trust Agreement dated as of January 1, 1982 among Ite Rail Corporation and First Security Bank of Utah, N.A., which was filed with the I.C.C. on September 20, 1983 and given Recordation No. 14165.

The names and addresses of the parties to the aforementioned are:

1. Atchison, Topeka and Santa Fe Railway Company - *Lessee*
80 East Jackson Boulevard
Chicago, Illinois 60604
2. Ite Rail Corporation - *Lessor*
55 Francisco, 5th Floor
San Francisco, California 94133

The equipment covered by this Lease is one hundred sixty-four (164) 70-ton flush deck flatcars bearing reporting marks SFLC 901050-901099, SFLC 901245-901294 and SFLC 901481-901544, A.A.R. mechanical designation FC, three hundred-fifty (350) 70-ton flush deck flatcars modified to hold two (2) forty-five (45) foot intermodal SFLC 902000-902049, SFLC 902100-902244, and SFLC 902545-902699, A.A.R. mechanical designation FC, and twenty-four (24) 70-ton flush deck flatcars bearing reporting marks TPW 105076-105095 and TPW 105097-105100, A.A.R. mechanical designation FC.

Also enclosed is a check in the amount of \$20.00 for the required recording fee.

Consolidated - Robert Brown

100-01-1000
JAN 14 2 45 PM '85
RECEIVED
UNIT

Mr. James H. Bayne, Secretary
December 26, 1984
Page Two

Please stamp all counterparts of the enclosed Lease with your official recording stamp. You will wish to retain one (1) counterpart of the document for your files; it is requested that the remaining three (3) counterparts be returned to the bearer of this document.

Sincerely,

Denise M. Bottarini
Legal Assistant

DMB/vdv

cc: Robert S. Clark, Esq.
Senior Trust Officer
First Security Bank of Utah, N.A.
Corporate Trust Division
79 South Main Street
Salt Lake City, Utah 84125

Virginia Hanger
Itel Rail Corporation.

9/12/84

LEASE AGREEMENT

14544
RECORDATION NO. Filed 1425
JAN 14 1985 - 2:50 PM

INTERSTATE COMMERCE COMMISSION

THIS LEASE AGREEMENT (the "Agreement") is made as of this 1st day of November, 1984, between ITEL RAIL CORPORATION, a Delaware corporation, 55 Francisco Street, San Francisco, California 94133, as the lessor ("Lessor") and THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a Delaware corporation, 80 East Jackson Boulevard, Chicago, Illinois, 60604, as the lessee ("Lessee").

1. Scope of Agreement

A. Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor upon the terms and conditions set forth herein, five hundred thirty-eight (538) items of equipment of the number, type, construction and other description set forth in Equipment Schedule Numbers 1, 2, and 3 attached hereto and executed by the parties concurrently herewith and any equipment lease schedule executed by the parties hereafter and made a part of this Agreement. The word "Schedule" as used herein includes the Equipment Schedule or Equipment Schedules executed herewith and any additional Equipment Schedules and amendments thereto, each of which when signed by both parties shall be a part of this Agreement. The scheduled items of equipment are hereinafter called collectively the "Cars" and individually a "Car."

B. It is the intent of the parties to this Agreement that Lessor shall at all times be and remain the lessor of all Cars. Lessee agrees that it will at no time take any action or file any document which is inconsistent with the foregoing intent and will take such action and execute such documents as may be necessary to accomplish this intent.

2. Term

This Agreement shall remain in full force until it is terminated as to all of the Cars as provided herein. The term of the Agreement with respect to each Car described on each Schedule shall commence on November 1, 1984, and shall expire on October 31, 1985, as to all of the Cars described on each Schedule (the "Term").

3. Supply Provisions

A. Lessee hereby approves the specifications of the Cars delivered to it by Lessor. The Cars shall be marked with the railroad markings of Lessee in compliance with all applicable regulations. Each Car shall be deemed delivered and subject to the terms and provisions of this Agreement at 12:01 a.m. on November 1, 1984 ("Delivery"). Notwithstanding that Lessee may not have immediate physical possession of the Cars leased hereunder, Lessee agrees to pay the rent set forth in this Agreement.

LESSOR'S INTEREST ASSIGNED TO
FIRST SECURITY BANK OF
UTAH, N.A., WITH RESPECT TO
CARS NUMBERED SECS 901050-901099,
901045-901094, 901481-901544, 901000-
902049, 902400-902444, 902445-902689,
TPUS 105076-105095, 105097-105100

ASSIGNED TO FIRST SECURITY BANK
OF UTAH, N.A., TRUSTEE, UNDER
A LEASE AGREEMENT DATED
AS OF December 7, 1984

- B. At such time during the Term as is mutually convenient, Lessee shall remark the Cars on Equipment Schedule No. 3 to bear reporting marks of Lessee. Lessee shall bear the cost of remarking such Cars. Remarkings, with respect to the Cars which appear on Equipment Schedule No. 3, shall not commence until an amendment hereto is executed by Lessor and Lessee providing for new reporting marks. Concurrent with the remarking of the Cars, Lessee shall execute a Certificate of Remarkings (in the form of Exhibit A attached hereto) specifying, with respect to each Car, the date each such Car was in the shop for remarking. Such Certificate of Remarkings shall become attached to and incorporated into the Agreement. Such Car shall be removed from the rent calculations set forth in Section 7 hereof for the number of days during which such Car was in shop for remarking as referenced herein.
- C. Additional Cars shall be leased from Lessor by Lessee only upon the mutual agreement of the parties. During the term of this Agreement, Lessor may, at its expense, replace any or all of the Cars with similar flatcars upon prior written notice from Lessor to Lessee; provided, however, that any such replacement shall not prevent or prohibit Lessee from fulfilling its obligations to provide transportation and facilities upon reasonable request therefor.

4. Record Keeping

- A. Lessee shall, at its expense, prepare and file, with respect to the Cars, all documents relating to the maintenance and record keeping functions normally performed by a railroad with respect to railroad equipment of the type subject to this Agreement. Such matters shall include, but are not limited to: (i) preparation of appropriate Association of American Railroads ("AAR") interchange agreements with respect to the Cars; (ii) registration of the Cars in the Official Railway Equipment Register and the Universal Machine Language Equipment Register ("UMLER"); and (iii) preparation of any reports as may be required from time to time by the Interstate Commerce Commission ("ICC") and any other regulatory agencies with respect to the Cars. Lessee shall register each Car in the UMLER in such a manner that Lessor is allowed access to any information required by Lessor with regard to each Car. In addition, Lessee shall be responsible for any expenses incurred and rent lost as the result of any improper UMLER registration.
- B. Lessee shall perform all record keeping functions relating to the use of the Cars by Lessee and other railroads, including but not limited to, records pertaining to maintenance and repair, and billing in accordance with the Interchange Rules adopted by the AAR Mechanical Division, Operation and Maintenance Department ("Interchange Rules"). All record keeping performed by Lessee hereunder and all records of payments, charges and correspondence

related to the Cars shall be separately recorded and maintained by Lessee in a form suitable for reasonable inspection by Lessor from time to time during Lessee's regular business hours.

5. Maintenance, Tax and Insurance

- A.** Except as otherwise provided herein, Lessor shall, at its expense, perform or have performed inspections, other than interchange inspections of, maintenance and repairs to, and servicing of, the Cars as shall be necessary to maintain the Cars in good operating condition as specified in the Interchange Rules, provided, however, that such repair, maintenance and servicing shall be performed at Lessee's expense in the event it was occasioned by the fault of Lessee, or arises in those instances in which the Interchange Rules would assign responsibility to Lessee for the loss, damage, destruction or liability requiring such repair, maintenance or servicing. Lessee shall, at its expense, inspect all Cars interchanged to Lessee to insure that such Cars are in good working order and condition and Lessee shall be liable to Lessor for any repairs required for damage not noted at the time of interchange. Lessee shall use its best efforts to minimize any damages to the Cars which may be caused by any shipper on Lessee's railroad line. With respect to the Cars, any repairs performed by Lessee at Lessor's expense shall be at a labor rate not to exceed the prevailing AAR Labor Rate unless a different labor rate is mutually agreed upon in writing by the parties hereto.
- B.** Lessor shall also make, at its expense, all alterations, modifications or replacement of parts as shall be necessary to maintain the Cars in good operating condition as specified in the Interchange Rules. Lessee may make only running repairs to those parts specified in Exhibit B attached hereto to facilitate continued immediate use of each Car, but shall not otherwise make or cause to have made, any repairs, alterations, improvements, or additions to any Car without Lessor's prior written consent. Lessee shall be liable to Lessor for any revenues lost due to any unauthorized repair, alteration, improvement or addition. Title to any such alteration, improvement or addition shall be and remain with Lessor. Lessor shall have the right to perform certain Repairs, as hereinafter defined, to the Cars at a location on Lessee's property, or at a contract shop, which is mutually agreeable to Lessor and Lessee. Repairs ("Repairs") shall be of the type that Lessor determines Lessee would not normally perform or of the type that Lessor determines would normally precipitate movement of such Cars to a repair facility. Lessor shall notify Lessee at least twenty-four (24) hours in advance of performing such Repairs.
- C.** As long as this Agreement shall remain in effect, Lessee shall be responsible for the Cars: (i) while in Lessee's possession or control; and (ii) in the same manner that Lessee is responsible under the Interchange Rules for similar equipment not owned by Lessee. Lessee shall, at all times while this Agreement is in

effect, at its own expense, cause to be carried and maintained: (a) physical loss or damage insurance with respect to the Cars while on Lessee's tracks, provided, however, that the Lessee may self-insure such Cars to the extent it self-insures equipment similar to the Cars and to the extent such self-insurance is consistent with prudent industry practice, and (b) public liability insurance with respect to third party personal injury and property damage, in each case said insurance shall be in such amounts and for such risks and with such insurance companies as are consistent with prudent industry practice, but in any event such insurance shall be at least comparable in amount, risk coverage and insurer, to insurance coverage carried by the Lessee with respect to similar equipment owned or leased by it. Lessee shall furnish to Lessor, concurrently with the execution hereof, certificates evidencing the aforesaid insurance. All insurance shall be taken out in the name of Lessee and shall name Lessor as additional named insured, and shall also list Lessor as loss-payee on the property insurance policies. Said policies shall provide that Lessor shall receive thirty (30) days prior written notice of any material changes in coverage or cancellation thereof. Lessor may, at its option, re-evaluate the insurance coverage provided by Lessee and require additional coverage as deemed necessary.

- D. Lessee assumes responsibility for and agrees to pay, protect, save, keep harmless and indemnify Lessor and its successors against taxes, fees, levies, imposts, duties or withholdings of any nature together with penalties, fines or interest thereon imposed on, incurred by or asserted against: (1) the Cars, (2) lease, sublease or delivery of the Cars, and (3) revenues earned by the Cars, including but not limited to mileage charges and/or car hire revenues, during the term of this Agreement, except taxes on income and franchise taxes imposed on Lessor. Lessee shall comply with all state and local laws requiring filing of ad valorem tax returns associated with the Cars and shall provide Lessor with a photostatic copy of the receipted ad valorem tax bill within thirty (30) days after receipt.

6. Storage

As long as there is sufficient room on Lessee's railroad tracks, Lessee shall, at its expense and if deemed necessary by Lessor, store the Cars on its railroad tracks. In the event that Lessee's capacity to store any or all of the Cars on Lessee's railroad tracks is impaired at any time, then Lessee shall be responsible for the following with respect to each and every Car stored: (i) all reasonable transportation costs incurred to move the Cars to a storage location; (ii) all reasonable transportation costs incurred in removing the Cars from the storage location; and (iii) the actual costs incurred for the storage of the Cars. If Lessor pays for any costs referred to in this Section, Lessee shall reimburse Lessor for such cost within ten (10) days from Lessee's receipt of Lessor's invoice. Lessor shall assist Lessee so as to minimize Lessee's exposure under this Section.

7. Rent

- A.** The fixed rent ("Fixed Rent") shall be twenty-three dollars and eighteen cents (\$23.18) per Car per day for each day during the Term.
- B.** On the first (1st) day of each month during the Term, Lessee shall pay the Fixed Rent, as set forth herein, to Lessor for each Car.
- C.** In the event damage beyond repair or destruction of a Car has been reported in accordance with Rule 107 of the AAR Field Manual of the Interchange Rules and Rules 7 and 8 of the AAR Code of Car Hire Rules and Interpretations-Freight, said destroyed Car will be removed from the rental calculations of this Agreement on the date car hire ceased as set forth in the aforementioned Rule 7. Lessor shall refund to Lessee any monies due Lessee which result in removing such Car from the rental calculations. Lessor may, at its expense, replace any destroyed Car with similar equipment upon prior written notice from Lessor to Lessee. If any Car, while in the possession of Lessee, is damaged to the extent that such damage exceeds the AAR Depreciated Value ("DV") for such Car, Lessee shall notify Lessor within sixty (60) days following the date of the occurrence of such damage ("Damage Date"). If Lessee fails to so notify Lessor within sixty (60) days of the Damage Date, Lessor has the right to engage an independent appraiser to inspect such Car to determine the extent of such damage. Regardless of whether or not Lessee has notified Lessor of the damage pursuant to this Subsection, Lessee shall remit to Lessor an amount equal to the DV of such Car within thirty (30) days of receipt of an invoice from Lessor.
- D.** Any agreement between Lessee and any other party with respect to the Cars ("Third Party Agreement(s)") shall be null and void without Lessor's prior written approval of the conditions contained therein if such Third Party Agreement affects the Revenues earned by the Cars, provided, however, that this shall in no event prevent or prohibit Lessee from fulfilling its obligations to provide transportation and facilities upon reasonable request therefor.
- E.** Lessor and Lessee agree to cooperate with and assist each other in any reasonable manner requested to establish and pursue proper claims against parties responsible for loss or destruction of, or damage to, the Cars, provided however, that this shall not affect their respective obligations under this Section 7.

8. Possession and Use

- A.** So long as Lessee shall not be in default under this Agreement, Lessee shall be entitled to the possession, use and quiet enjoyment of the Cars in accordance with the terms of this Agreement and in the manner and to the extent the Cars are customarily used in the railroad freight business as set forth in Subsection 8.C. However, Lessee's rights shall be subject and subordinate to the rights of any owner or secured party under any financing agreement entered into by Lessor in connection with the acquisition of the Cars which are the subject of this Agreement.

Accordingly, following notice to Lessee from any such secured party or owner that an event of default has occurred at any time (including at a time prior to the effective date of this Agreement), and is continuing under such financing agreement, such party may require either or both that rentals and other sums due hereunder shall be paid directly to such party, and that the Cars immediately be returned to such party.

- B. Lessee agrees that to the extent it has physical possession and can control use of the Cars, the Cars shall at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same are operated and in which the same may be located and in compliance with all lawful acts, rules and regulations and orders of any governmental bodies or officers having power to regulate or supervise the use of such property, except that either Lessor or Lessee may in good faith and by appropriate proceedings, contest the application of any such act, rule, regulation or order in any reasonable manner at the expense of the contesting party.
- C. The use of the Cars shall be limited to use by a rail common carrier and the Cars shall always bear the reporting marks of a rail common carrier. Lessee shall not remove Lessee's railroad marks from any Car without the prior written consent of Lessor. During the term of this Agreement, the Cars shall at all times be registered in the Official Railway Equipment Register and the UMLER.
- D. Lessee will not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim arising through it, on, or with respect to the Cars or any interest therein, or in this Agreement or Schedule thereto, except as otherwise provided herein. Lessee will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest, or claim if the same shall arise at any time.

9. Default

- A. The occurrence of any of the following events shall be an event of default:
 - (i) The nonpayment by Lessee of any sum required herein to be paid by Lessee within thirty (30) days after the date any such payment is due;
 - (ii) The breach by Lessee of any other term, covenant, or condition of this Agreement, which is not cured within thirty (30) days thereafter;

- (iii) The filing by or against the Lessee of any petition or the initiation by or against the Lessee of any proceeding: a) for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder; or b) under any bankruptcy, reorganization, insolvency, receivership, moratorium or other laws relating to the relief of debtors, the readjustment of indebtedness, financial reorganization, arrangements with creditors, compositions of indebtedness, or extensions of indebtedness.
- (iv) The subjection of any of Lessee's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency.

B. Upon the occurrence of any event of default hereunder, without limiting Lessor's rights and remedies otherwise provided by law which shall be available to Lessor in addition to the following rights and remedies (no right or remedy of Lessor being exclusive but all such rights and remedies being available at all times to Lessor and Lessor in any case being entitled to recover all costs, expenses and attorneys' fees incurred by Lessor in enforcing its rights and remedies hereunder), Lessor may, at its option, terminate this Agreement and/or may:

- (i) Proceed by any lawful means to enforce performance by Lessee of this Agreement or to recover damages for a breach thereof, and/or
- (ii) By notice in writing to Lessee, terminate Lessee's right of possession and use of the Cars, whereupon all right and interest of Lessee in the Cars shall terminate; and thereupon Lessor may enter upon any premises where the Cars may be located and take possession of the Cars and henceforth hold, possess and enjoy the same free from any right of Lessee. Lessor shall, in addition, have the right to recover from Lessee any and all rental amounts which under the terms of this Agreement may then be due or which may have accrued to that date, together with Lessor's costs and expenses, including reasonable attorneys' fees incurred in securing such enforcement hereof.

10. Expiration or Early Termination

A. Upon the expiration of this Agreement with respect to any Car, Lessee shall promptly return such Car to Lessor as follows:

- (i) If some or all of the Cars are to be delivered to Lessor at a designated interchange point on Lessee's railroad tracks, Lessee shall be responsible for any transportation costs incurred in moving such Cars to such point subsequent to the time of expiration. Lessee shall, at Lessor's option, provide, with respect to any Car described on any Schedule which is either on the Lessee's railroad tracks at

the time of expiration or is subsequently returned to Lessee's railroad tracks, up to one hundred twenty (120) days free storage on its railroad tracks from either the date of expiration or the date the last Car on such Schedule is returned to Lessee's railroad line subsequent to the time of expiration, whichever date is later.

At the option of Lessor, either Lessee or a contractor chosen by Lessor shall, at Lessee's expense, remark the Cars as set forth in Subsection 10.C. of this Agreement. Lessee shall not remove Lessee's railroad marks from any Car without the prior written consent of Lessor. After remarking, Lessee shall deliver the Cars to Lessor at a location on Lessee's tracks designated by Lessee.

- (ii) If some or all of the Cars are to be delivered to Lessor at a location other than Lessee's tracks, the cost of assembling, delivering, storing, and transporting each Car to such location shall be borne by Lessor. Lessee shall bear the expense of remarking such Cars.

B. Early Termination

Upon the early termination of this Agreement with respect to any Car, whether or not pursuant to Section 9 hereof, Lessee shall promptly return such Car to Lessor as follows:

- (i) If some or all of the Cars are to be delivered to Lessor at Lessee's railroad tracks, Lessee shall be responsible for any transportation costs incurred in moving such Cars to the Lessee's railroad tracks subsequent to the time of early termination. Lessee shall, at Lessor's option, provide, with respect to any Car described on any Schedule which is either on the Lessee's railroad tracks at the time of early termination or is subsequently returned to Lessee's railroad tracks, up to one hundred twenty (120) days free storage on its railroad tracks from either the date of early termination or the date the last Car on such Schedule is returned to Lessee's railroad line subsequent to the time of early termination, whichever date is later.

At the option of Lessor, either Lessee or a contractor chosen by Lessor shall, at Lessee's expense, remark the Cars as set forth in Subsection 10.C. of this Agreement. Lessee shall not remove Lessee's railroad marks from any Car without the prior written consent of Lessor. After remarking, Lessee shall, at Lessor's option, use its best efforts to load the Cars with freight and deliver them to a connecting carrier for shipment.

- (ii) If some or all of the Cars are to be delivered to Lessor at a location other than Lessee's tracks, the cost of assembling, delivering, storing, and transporting each Car to such location shall be borne by Lessee. Lessee shall bear the expense of remarking such Cars.

- C. Remarking, with respect to each Car, shall include the following: a) removal of existing mandatory markings of Lessee; b) complete cleaning subsequent to the removal of markings as designated by lessor; c) application of new mandatory markings; and d) any transportation involved in moving each Car to and from a suitable work area to perform the remarking set forth in this Section.

11. Indemnities

- A. LESSEE SHALL DEFEND, INDEMNIFY AND HOLD LESSOR HARMLESS FROM AND AGAINST ANY LOSS, DAMAGE, DESTRUCTION OR LIABILITY WITH RESPECT TO THE CARS WHICH IS OCCASIONED BY THE FAULT OF LESSEE, OR WHICH OCCURS WHILE THE CARS ARE IN LESSEE'S POSSESSION OR CONTROL, OR IN THOSE INSTANCES IN WHICH THE INTERCHANGE RULES WOULD ASSIGN RESPONSIBILITY FOR SUCH LOSS, DAMAGE, DESTRUCTION, OR LIABILITY TO LESSEE.
- B. SUBJECT TO SUBSECTION 11.A., AND EXCEPT FOR THOSE CLAIMS, CAUSES OF ACTION, DAMAGES, LIABILITIES, COSTS OR EXPENSES FOR WHICH LESSEE SHALL BE RESPONSIBLE AS SET FORTH IN THIS AGREEMENT LESSOR SHALL DEFEND, INDEMNIFY AND HOLD LESSEE HARMLESS AGAINST ANY AND ALL LOSS, DAMAGE OR DESTRUCTION OF OR TO THE CARS, USUAL WEAR AND TEAR EXCEPTED, AND ANY CLAIM, CAUSE OF ACTION, DAMAGE, LIABILITY, COST OR EXPENSE WHICH MAY BE ASSERTED AGAINST LESSEE WITH RESPECT TO THE CARS, INCLUDING WITHOUT LIMITATION, THE LEASING OR RETURN OF THE CARS, USE, MAINTENANCE, REPAIR, REPLACEMENT OR OPERATION OF THE CARS OR THE CONDITION OF THE CARS (WHETHER DEFECTS, IF ANY, ARE LATENT OR ARE DISCOVERABLE BY LESSOR OR LESSEE).

12. Representations, Warranties, and Covenants

Lessee represents, warrants and covenants that:

- A. Lessee is a corporation duly organized, validly existing and in good standing under the laws of the state where it is incorporated and has the corporate power, authority and, insofar as is material to Lessor's rights under this Agreement, is duly qualified and authorized to do business wherever necessary, to carry out its present business and operations and to own or hold under lease its properties and to perform its obligations under this Agreement.
- B. The entering into and performance of this Agreement will not violate any judgment, order, law or regulation applicable to Lessee, or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Lessee or on the Cars pursuant to any instrument to which Lessee is a party or by which it or its assets may be bound.

- C. There is no action or proceeding pending or threatened against Lessee before any court or administrative agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or conditions, financial or otherwise, of Lessee such that Lessee's ability to perform its obligations hereunder would be materially and adversely affected.
- D. There is no fact which Lessee has not disclosed to Lessor in writing, nor is Lessee a party to any agreement or instrument or subject to any charter or other corporate restriction which, so far as the Lessee can now reasonably foresee, will individually or in the aggregate materially adversely affect the business, condition or any material portion of the properties of the Lessee or the ability of the Lessee to perform its obligation under this Agreement.

13. Inspection

Lessor shall at any time during normal business hours have the right to enter any premises where the Cars may be located for the purpose of inspecting and examining the Cars to ensure Lessee's compliance with its obligations hereunder.

14. Miscellaneous

- A. This Agreement and the Schedules contemplated hereby shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, provided, however, that Lessee may not without the prior written consent of Lessor, assign this Agreement or any of its rights hereunder or sublease any Cars to any party, and any purported assignment or sublease in violation hereof shall be void.
- B. Both parties agree to execute the documents contemplated by this transaction and such other documents as may be required in furtherance of any financing agreement entered into by Lessor or its assignees in connection with the acquisition or financing or use of the Cars in order to confirm the financing parties' interest in and to the Cars, this Agreement and Schedules hereto and to confirm the subordination provisions contained in Section 8 of this Agreement.
- C. It is expressly understood and agreed by the parties hereto that this Agreement constitutes a lease of the Cars only and no joint sale or venture or partnership is being created. Notwithstanding the calculation of rental payments, nothing herein shall be construed as conveying to Lessee any right, title or interest in the Cars, except as a Lessee only.

- D. No failure or delay by Lessor shall constitute a waiver or otherwise affect or impair any right, power or remedy available to Lessor, nor shall any waiver or indulgence by Lessor or any partial or single exercise of any right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.
- E. This Agreement shall be governed by and construed according to the laws of the State of California and jurisdiction of any action with respect to the Agreement shall be in the courts located in the State of California.
- F. Lessee shall notify Lessor as soon as is practicable of any accident connected with the malfunctioning or operation of the Cars, including in such report, where available, the time, place and nature of the accident and the damage caused.
- G. Lessee shall also notify Lessor in writing within five (5) days after any attachment, tax lien or other judicial process shall attach to any Car.
- H. Lessee shall furnish to Lessor promptly upon its becoming available, a copy of its annual report submitted to the ICC and, when requested, copies of any other income or balance sheet statements required to be submitted to the ICC.
- I. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail, postage prepaid, certified or registered, addressed to the president of the other party at the address set forth herein or at such other address as to which any party shall notify the other party.
- J. The obligations and liabilities of Lessor and Lessee hereunder shall survive the expiration or earlier termination of this Agreement.
- K. This Agreement represents the entire Agreement. This Agreement shall not be modified, altered, or amended, except by an agreement in writing signed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

ITEL RAIL CORPORATION

By: *JD Hayes*
Title: Acting President
Date: 12/21/84

ATCHISON, TOPEKA & SANTA FE
RAILWAY COMPANY

By: *D G Rugg*
Title: Executive Vice President
Date: 11-12-84

EXHIBIT A
CERTIFICATE OF REMARKING

<u>Previous</u> <u>Car Number</u>	<u>Date</u> <u>Shop</u> <u>Arrival</u>	<u>Date</u> <u>Shop</u> <u>Departure</u>	<u>Current</u> <u>Car SFLC Number</u>
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The Atchison, Topeka & Santa Fe
Railway Company
Authorized Representative

EXHIBIT B

Running Repairs

Angle Cocks

Air Hose

Train Line

Operating Levers in Brackets

Sill Steps

Grab Irons

Brake Shoes

Brake Shoe Keys

Brake Connecting Pin

Brake Head Wear Plates

In-Date-Test

Air Brakes

Hand Brakes

Truck Springs

Running Repairs Continued

Wheels

Yokes

Knuckles/pins

Shock Adjuster

Pedestal Locks

Couplers

Draft Gears

Coupler Carriers

Center Plates

Lube of Hitches

Cotter Keys

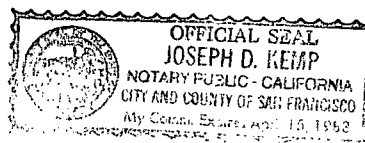
Roller Bearing Adapters

Air Hose Supports

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 21st day of December, 1984, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is Acting President of Itel Rail Corporation, that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Joseph D. Kemp
Notary Public



STATE OF Ill.)
) ss:
COUNTY OF Cook)

On this 12th day of November, 1984, before me personally appeared D.G. Ruegg, to me personally known, who being by me duly sworn says that such person is Exec. Vice President of the Atchison, Topeka & Santa Fe Railway Company, that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

John Thomas
Notary Public

My Commission Expires Feb. 3, 1988

EQUIPMENT SCHEDULE NO. 1

Itel Rail Corporation hereby leases the following Cars to the Atchison, Topeka & Santa Fe Railway Company subject to the terms and conditions of that certain Lease Agreement dated as of November 1, 1984.

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions		Doors Width	No. of Cars
				Inside Width	Height		
FC	70-Ton Flush Deck Flatcar	SFLC 901050-901099 901245-901294 901481-901544	89'4"	N/A	N/A	N/A	164

ITEL RAIL CORPORATION

By: *D. Hayes*
Title: Acting President
Date: 12/21/84

THE ATCHISON, TOPEKA & SANTA FE
RAILWAY COMPANY

By: *D. E. Rugg*
Title: Executive Vice President
Date: 11-12-84

EQUIPMENT SCHEDULE NO. 2

Itel Rail Corporation hereby leases the following Cars to the Atchison, Topeka & Santa Fe Railway Company subject to the terms and conditions of that certain Lease Agreement dated as of November 1, 1984.

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions		Doors Width	No. of Cars
				Inside Width	Height		
FC	70-Ton Flush Deck Flatcar; Modified to hold two (2) forty-five foot (45') intermodal trailers	SFLC 902000-902049 902100-902244 902545-902699	89'4"	N/A	N/A	N/A	350

ITEL RAIL CORPORATION

By: *D. W. Hayes*
Title: *Acting President*
Date: *12/21/84*

THE ATCHISON, TOPEKA & SANTA FE
RAILWAY COMPANY

By: *D. E. Ruegg*
Title: Executive Vice President
Date: 11-12-84

EQUIPMENT SCHEDULE NO. 3

Itel Rail Corporation hereby leases the following Cars to the Atchison, Topeka & Santa Fe Railway Company subject to the terms and conditions of that certain Lease Agreement dated as of November 1, 1984.

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions		Doors Width	No. of Cars
				Inside Width	Height		
FC	70-Ton Flush Deck Flatcar	TPW 105076-105095 105097-105100	89'4"	N/A	N/A	N/A	24

ITEL RAIL CORPORATION

By: *D. Hayes*
Title: *Acting President*
Date: *12/21/84*

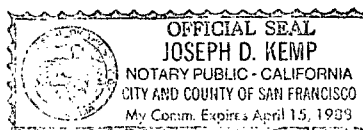
THE ATCHISON, TOPEKA & SANTA FE
RAILWAY COMPANY

By: *D. B. Rugg*
Title: Executive Vice President
Date: 11-12-84

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 21st day of December, 1984, before me personally appeared Desmond D. Hues, to me personally known, who being by me duly sworn says that such person is Acting President of Itel Rail Corporation, that the foregoing Equipment Schedules No. 1, 2, and 3 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Joseph D. Kemp
Notary Public



STATE OF Ill.)
) ss:
COUNTY OF Cook)

On this 12th day of November, 1984, before me personally appeared D. G. Rugg, to me personally known, who being by me duly sworn says that such person is Executive Vice President of The Atchison, Topeka & Santa Fe Railway Company, that the foregoing Equipment Schedules No. 1, 2, and 3 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

John Thomas
Notary Public

My Commission Expires Feb. 3, 1988